



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,271	04/25/2001	Melvyn C Bale	36-1441	7755

7590

07/22/2004

Nixon & Vanderhye  
8th Floor  
1100 North Glebe Road  
Arlington, VA 22201-4714

EXAMINER

PATEL, ASHOKKUMAR B

ART UNIT

PAPER NUMBER

2154

DATE MAILED: 07/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/830,271

**Applicant(s)**

BALE ET AL.

**Examiner**

Ashok B. Patel

**Art Unit**

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/21/01</u> . | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2154

### **DETAILED ACTION**

1. Application Number 09/830, 271 was filed on 04/25/2001. Claims 1-17 are subject to examination.

#### ***Specification***

2. The disclosure is objected to because of the following informalities:
  - a. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.

(b) CROSS-REFERENCE TO RELATED APPLICATIONS.

(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.

(d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)

(e) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(f) BRIEF SUMMARY OF THE INVENTION.

(g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(h) DETAILED DESCRIPTION OF THE INVENTION.

(i) CLAIM OR CLAIMS (commencing on a separate sheet).

(j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### ***Claim Rejections - 35 USC § 101***

**3. 35 U.S.C. 101 reads as follows:**

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

- a. Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

These claims recite a messaging platform, failing to recite any hardware necessary to render the claims tangible.

For the purpose of this office action, it is assumed that the platform is incorporated into the appropriate hardware.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 2154

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated Gallant et al. (US 5, 802, 466).

**Referring to claim 1,**

The reference teaches a messaging platform (Fig.1, element 104) including:

a) a message store arranged to receive message data and to store said message data for subsequent retrieval, (Fig.1, element 104 and 112, col.4, lines 53-55) characterised by

b) an overload controller (Fig.1, element 104) responsive to an overload condition in the platform and arranged, in response to the said overload condition, to limit loading of the platform.(col.4, lines 55-67 and col.5, lines 1-41)

**Referring to claim 2,**

The reference teaches a messaging platform according to claim 1, further comprising:

c) a control interface arranged to receive control requests instructing transactions on the messaging platform, (col.6, lines 58-62)

and in which the overload controller includes means for denying at least some of the control requests in response to the overload condition. (col.5, lines 36-41," VMS 104 sends a mailbox full notification to PCD 118 so that the subscriber can observe that mailbox 112 cannot receive any additional messages.")nd col.7, lines 27-35)

**Referring to claim 3,**

The reference teaches a platform according to claim 2, in which the overload controller programmed with criteria for applying different classes of service to control requests received at the control interface and the overload controller is arranged, in response to an overload condition on the platform, selectively to deny control requests depending on a class of service assigned in accordance with the said criteria to the control request. (col.5, lines 12-67 and col.6, lines 1-32, col.7, lines 27-35)

**Referring to claims 4, 5 and 6,**

The reference teaches a platform according to claim 3, in which the criteria apply a class of service selected depending on the identity of a service provider originating the said control requests, and in which the criteria apply a class of service selected depending on the identity of a subscriber mailbox to which the control request applies, and in which the criteria apply different service classes depending on the transaction requested by the control request. (col.6, lines 58-67 and col.7, lines 1-67 and col.8, lines 1-10).

**Referring to claim 7,**

The reference teaches a messaging system comprising:

    a service platform running a messaging service application; (Fig.1, element 106 "PCN" consists of MSCs, BSCs, HLR and PSN) and

    a messaging platform according to claim 1 connected to the service platform via a control interface, and arranged to receive control requests from the service platform

via the control interface. (Fig.1, element 104 9 inherent interface which programs mode of operation statically or dynamically, col.5, lines 12-15, or element 118 "PCD" with Mode select switch, col.6, lines 59-62)

**Referring to claim 8,**

The reference teaches a messaging system according to claim 7, in which the service platform is remote from the messaging platform. (Fig.1, elements 106 and 104)

**Referring to claim 9,**

Claim 9 is a claim to a communications network including a messaging platform according to claim 1. Therefore, claim 9 is rejected for the reasons set forth for claim 1.

**Referring to claim 10,**

The reference teaches a method of operating a messaging platform including:

- a) storing message data on the messaging platform:
- b) subsequently outputting message data from the platform, thereby allowing retrieval of a corresponding message; (Fig.1, element 104 and 112, col.4, lines 53-55) characterised by
- c) detecting an overload condition on the platform and in response to the overload condition limiting loading of the platform. (col.4, lines 55-67 and col.5, lines 1-41).

**Referring to claim 11,**

The reference teaches a method according to claim 10, further comprising

- d) receiving at the message platform control requests instructing transaction on the messaging platform, (col.6, lines 58-62)

and in which the step of limiting loading of the platform includes denying at least some of the control requests. (col.5, lines 36-41," VMS 104 sends a mailbox full notification to PCD 118 so that the subscriber can observe that mailbox 112 cannot receive any additional messages." And col.7, lines 27-35)

**Referring to claim 12,**

The reference teaches a method according to claim 11, including applying different classes of service to the control requests, and in response to the overload condition selectively denying some only of the control requests depending on the class of service applied to the control requests.(col.5, lines 12-67 and col.6, lines 1-32, col.7, lines 27-35)

**Referring to claims 13, 14 and 15,**

The reference teaches a method according to claim 12, including applying different classes of service to control requests depending on the identity of an originating service Provider, and including applying different classes of service to control requests depending on identities of customer mailboxes to which the control requests, and including applying different classes of service to control requests depending on the transaction requested by the control request. (col.6, lines 58-67 and col.7, lines 1-67 and col.8, lines 1-10).

**Referring to claim 16,**

The reference teaches a method according to claim 15, in which the messaging platform includes a plurality of mailboxes containing message data (Fig.1, element 112), each mailbox being switchable between an open state, in which message data may be



Art Unit: 2154

written to or read from the mailbox, and a closed state, and in which the step of limiting loading includes allowing requests for the closing of a mailbox and denying requests for the opening of a mailbox. (col.7, lines 28-35, opening a mailbox indicates that opening a mailbox for incoming mail after deleting the some of the mails which limits the load).

**Referring to claim 17,**

Claim 17 is a claim to a communications network including a messaging system as in claim 7. Therefore, claim 17 is rejected for the reasons set forth for claim 7.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok B. Patel whose telephone number is (703) 305-2655. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

  
JOHN FOLLANSBEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

Art Unit: 2154

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Abp

\*\*\*